

clusion of which a motion to refer the resolution to the Committee on the Judiciary was agreed to.

### **§ 11. Correcting the Record; Expungement of Words Uttered in Debate**

A resolution asking the Senate to expunge from the *Congressional Record* language used in debate in the Senate which is offensive or otherwise improper may give rise to a question of the privilege of the House since the remedy of demanding that words be taken down is not available.<sup>(16)</sup> However, neither a question of personal privilege nor a question of the privilege of the House arises during a debate in which offensive language is used, the remedy being a demand that the objectionable words be taken down when spoken. Thus, on one occasion,<sup>(17)</sup> a Member, having risen to a question of personal privilege and of the privilege of the House, submitted a resolution to strike from the *Congressional Record* remarks made by a Member in the course of floor debate reflecting on the integrity of both the House

and a majority of the Members. Citing Rule XIV clause 5,<sup>(18)</sup> which provides for the taking down of objectionable words, the Speaker<sup>(19)</sup> ruled the Member out of order in raising a question of privilege under the circumstances.

#### ***Senate Debate Reflecting on House Integrity***

##### **§ 11.1 A resolution to expunge from the Congressional Record Senate debate reflecting on the integrity of the House presents a question of the privilege of the House.**

On July 12, 1956,<sup>(1)</sup> Mr. Clare E. Hoffman, of Michigan, presented as a matter giving rise to a question of the privilege of the House a resolution seeking the expurgation from the Record of Senate debate attributing improper motives and influence to House action on an education bill.

The resolution [H. Res. 588] provided:

*Resolved*, whereas in the Congressional Record of July 9, 1956, certain articles appear which reflect upon the integrity of the House as a whole in its

16. §§ 11.1 et seq., *infra*.

17. 96 CONG. REC. 1514, 81st Cong. 2d Sess., Feb. 6, 1950. For further illustrations see Ch. 29, *infra*.

18. *House Rules and Manual* §761 (1973).

19. Sam Rayburn (Tex.).

1. 102 CONG. REC. 12522, 12523, 84th Cong. 2d Sess.

representative capacity, and upon individual Members of the House; and

Whereas such statements tend to disgrace, degrade, and render ineffective the actions of the Members of the House; and

Whereas the statements so made and carried in the Record adversely affect the rights of the House collectively, its safety, dignity, and the integrity of its proceedings: Now, therefore, be it

*Resolved*, That the House hereby by the adoption of this resolution most respectfully requests that the other body expunge from its records the rollcall votes and remarks appearing on pages 11016–11017 and the remarks appearing on page A5384 of the daily Congressional Record of July 9, 1956, under the caption “Ignoring the children”; and be it further

*Resolved*, That a copy of this resolution be transmitted to the Presiding Officer of the other body.

By vote of the House the resolution was referred to the Committee on Rules.

### ***House Debate Reflecting on the Senate***

#### **§ 11.2 A resolution to expunge from the Congressional Record House debate reflecting on the Senate presents a question of the privilege of the House.**

On May 24, 1950,<sup>(2)</sup> Mr. Clare E. Hoffman, of Michigan, rose to a

2. 96 CONG. REC. 7635–37, 81st Cong. 2d Sess.

question of the privilege of the House:

THE SPEAKER PRO TEMPORE:<sup>(3)</sup> The gentleman will state the question of privilege.

MR. HOFFMAN of Michigan: Mr. Speaker, in the daily Congressional Record of Monday, May 22, 1950, on page A4071 under date of Thursday, May 18, 1950, under the caption “We will meet the test,” there appears an extension of remarks of the Honorable Andrew J. Biemiller, of Wisconsin, which is a violation of the rules of the House in that in those remarks and in the editorial accompanying those remarks a Member of the other body is mentioned in such manner as to reflect upon him in his representative capacity. Such remarks and editorial as inserted in the Congressional Record are made a part of this question of privilege, are a violation of the rules of the House which prohibit any reference in the Congressional Record by a Member of this body to a Member of the other body.

The resolution which I offer is that such remarks be stricken from the Appendix.

THE SPEAKER PRO TEMPORE: The Clerk will report the resolution.

The Clerk read as follows:

Whereas the remarks of the gentleman from Wisconsin, Mr. Biemiller, which appear on page A4071 of the daily Congressional Record of Monday, May 22, 1950, and which are captioned, “We will meet the test,” are a violation of the rules of the House: Therefore be it

*Resolved by the House*, That said remarks as so indicated be, and the

3. John W. McCormack (Mass.).

same hereby are, stricken from the Record.

Debate on the resolution ensued. Subsequently, on the House's agreement to a unanimous-consent request by Mr. Biemiller that his remarks be deleted from the permanent Record, the resolution was withdrawn.

### ***House Debate Reflecting on Members***

#### **§ 11.3 On one occasion the House agreed to a resolution which had been presented as a question of privilege of the House, and which expunged from the Congressional Record House debate which had impugned the integrity of a Member.**

On Sept. 5, 1940,<sup>(4)</sup> Mr. Clare E. Hoffman, of Michigan, rose to a question of the privilege of the House and offered a resolution<sup>(5)</sup> as follows:

Whereas the gentleman from the Second District of Kentucky [Mr. (Beverly M.) Vincent], referring to the gentleman from the Twentieth District of Ohio [Mr. (Martin L.) Sweeney], stated on the floor of the House on September 4, 1940, as appears in the [daily] Record on page 17450, "I said I did not want to sit by a traitor to my country;" and

4. 86 CONG. REC. 11552, 76th Cong. 3d Sess.

5. H. Res. 591.

Whereas such words were a violation of the rules of the House and, as reprinted in the Record, charge the Member from Ohio with a lack of patriotism, and with disloyalty to his country, reflect upon him in his representative capacity and upon the dignity of the House: Therefore, be it

*Resolved*, That the words, "I said I did not want to sit by a traitor to my country," be expunged from the Record.

Debate on the resolution ensued, at the conclusion of which the resolution was agreed to.

*Parliamentarian's Note:* No point of order was raised against the presentation of this resolution as a question of privilege of the House. The proper remedy in such a case is to have the offending words taken down. Detailed coverage of this procedure is found in chapter 29, *infra*.

### ***Offensive or Unauthorized Material Inserted in the Record***

#### **§ 11.4 A resolution to expunge from the Congressional Record several articles and documents criticizing a House committee, inserted in the Record by a Member, was entertained as a question of the privilege of the House.**

On Mar. 10, 1948,<sup>(6)</sup> Mr. John E. Rankin, of Mississippi, pre-

6. 94 CONG. REC. 2476-81, 80th Cong. 2d Sess. For additional examples see

sented as a matter involving the privilege of the House a resolution requesting that several articles and documents alleging that “[the Committee on Un-American Activities] continue[s] the practice of Hitler and Himmler, which would lead America . . . down the road toward fascism” which had been inserted in the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, be stricken therefrom. Following some debate the resolution was agreed to. The Member’s entire speech, including the articles and documents, was stricken from the Record.

**§ 11.5 A resolution to expunge from the Congressional Record a speech inserted therein alleged to reflect on the integrity of the House and its Members is entertained as a question of privilege.**

On May 13, 1946,<sup>(7)</sup> Mr. Clare E. Hoffman, of Michigan, offered as a matter involving a question of the privilege of the House a resolution<sup>(8)</sup> concerning the text of a speech delivered by August Scholle, a Michigan labor union

93 CONG. REC. 2461–63, 80th Cong. 1st Sess., Mar. 24, 1947.

7. 92 CONG. REC. 4922–24, 79th Cong. 2d Sess.

8. H. Res. 616.

official, assailing the integrity of both the House and its Members. The resolution proposed that the speech, which had been inserted in the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, be stricken therefrom. The resolution was adopted on a roll call vote—yeas 247, nays 77, not voting 106.

**§ 11.6 A resolution to expunge from the Congressional Record unparliamentary language inserted under leave to extend is entertained as a question of the privilege of the House.**

On Apr. 20, 1936,<sup>(9)</sup> Mr. Thomas L. Blanton, of Texas, presented as a question of the privilege of the House a resolution<sup>(10)</sup> demanding the expurgation from the Record of certain unparliamentary remarks concerning the personal life of a Member. The material had been inserted on a preceding day under leave to extend that had been granted to Mr. Marion A. Zioncheck, of Washington. The resolution was agreed to on a roll call vote.

**§ 11.7 A resolution to expunge certain remarks inserted**

9. 80 CONG. REC. 5704–07, 74th Cong. 2d Sess.

10. H. Res. 490.

**through an abuse of the grant of leave to print in the Congressional Record gives rise to a question of the privilege of the House.**

On July 13, 1942,<sup>(11)</sup> Mr. John E. Rankin, of Mississippi, presented as a matter of the privilege of the House the following resolution:<sup>(12)</sup>

Whereas in the daily Congressional Record of July 9, 1942, on page A2877, A2878, and A2879 of the Appendix thereof, the remarks purporting to be made by the gentleman from New York, Mr. Sol Bloom, and containing a letter written by one Ralph Ingersoll attacking draft board No. 44 of New York for performing its official duties in refusing to exempt the said Ralph Ingersoll from the draft on the flimsy pretext set out in said letter; and

Whereas said letter was inserted under permission to insert an editorial and not a letter from the said Ralph Ingersoll; and

Whereas it is stated on page 6271 of the Congressional Record of July 9, 1942, that the printing of this insertion in the Congressional Record was estimated to cost the Government of the United States \$157.50; and

Whereas said letter so inserted in lieu of the editorial for which permission was given contains language and statements that are objectionable and unparliamentary; and

**11.** 88 CONG. REC. 6102, 77th Cong. 2d Sess. For a further example see 92 CONG. REC. 1274, 79th Cong. 2d Sess., Feb. 13, 1946.

**12.** H. Res. 518.

Whereas said statements were not made upon the floor of the House; and

Whereas said statements reflect upon Members of Congress, are false, improper, and out of order, and in violation of the privileges and rules of the House; and if they had been uttered upon the floor of the House they would have been subject to a point of order: Therefore be it

*Resolved*, That the said remarks be stricken from the Record and the Public Printer prohibited from issuing copies thereof from the columns of the Congressional Record.

Without debate, the resolution was adopted.

**§ 11.8 A resolution to expunge from the Congressional Record certain remarks inserted without proper authorization is entertained as a matter of the privilege of the House.**

On Aug. 27, 1940,<sup>(13)</sup> Mr. Jacob Thorkelson, of Montana, offered as a question of the privilege of the House a resolution demanding that certain remarks inserted into the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, without first having obtained the permission of the House, be expunged from the Record and declared not to constitute a legitimate part of

**13.** 86 CONG. REC. 11046, 76th Cong. 3d Sess. For an additional example see 80 CONG. REC. 7019, 74th Cong. 2d Sess., May 11, 1936.

the official Record of the House. After some debate the resolution was adopted.

***Inaccuracies in the Congressional Record***

**§ 11.9 A resolution to correct inaccuracies in the report of proceedings as printed in the Congressional Record is presented as a question of the privilege of the House.**

On Apr. 26, 1940,<sup>(14)</sup> Mr. Clare E. Hoffman, of Michigan, offered as a matter involving the question of the privilege of the House the following resolution:

Whereas the Congressional Record of April 25, 1940, is not, on pages 5046 to 5051, inclusive, a true and accurate record of the proceedings that took place on the floor of the House on yesterday, in that there is omitted therefrom a demand which was made on the floor of the House by the gentleman from the Twelfth Congressional District of Michigan that certain words uttered on the floor of the House by the gentleman from the Second District of Georgia be taken down, and, there is omitted therefrom, the ruling of the Speaker upon such demand, and there is omitted therefrom a motion which was made by the gentleman from the Twelfth District of Massachusetts, and there is omitted therefrom the vote taken on said motion, and there is omitted therefrom the result of said

vote and the subsequent direction of the Speaker to the gentleman from Georgia to continue: Now, therefore, be it

*Resolved*, That the Record of the House be corrected and that the proceedings above referred to be printed therein.

Following agreement by unanimous consent to the request of Mr. Edward E. Cox, of Georgia, that the stricken matter in question be restored to the Record, the resolution was withdrawn.

***Restoration of Remarks Previously Deleted***

**§ 11.10 A resolution to restore to the Record remarks previously deleted by House adoption of a motion to expunge does not present a question of the privilege of the House; the proper method of reopening the matter being by motion to reconsider the vote whereby such action was taken.**

On Feb. 13, 1941,<sup>(15)</sup> Mr. Clare E. Hoffman, of Michigan, rose to a question of the privilege of the House and submitted a resolution requesting the restoration to the Record of certain remarks made by him and Mr. Samuel Dickstein, of New York, during the previous

14. 86 CONG. REC. 5111, 5112, 76th Cong. 3d Sess.

15. 87 CONG. REC. 979, 980, 77th Cong. 1st Sess.

day's proceedings. Such remarks had been deleted by the House pursuant to the adoption of a motion to expunge made by Mr. John E. Rankin, of Mississippi. Following debate, an inquiry was heard from Mr. Hoffman as to whether the Chair had ruled on the question of the privilege of the House. Responding to the inquiry, the Speaker<sup>(16)</sup> stated:

The House would have to decide that, and, in the opinion of the Chair, the House did decide the matter when it expunged the remarks from the Record. The Chair thinks, under the circumstances, that the proper way to reopen the question would be by a motion to reconsider the vote whereby the motion of the gentleman from Mississippi [Mr. Rankin] was adopted. The Chair is of the opinion that inasmuch as the question raised by the gentleman from Michigan was decided by a vote of the House on a proper motion, that he does not now present a question of privilege of the House or of personal privilege.

## § 12. Enforcement of Committee Orders and Subpenas

### *Warrants Detaining Committee Witnesses*

#### § 12.1 A resolution authorizing the Speaker to issue a war-

16. Sam Rayburn (Tex.).

**rant commanding the detention of a committee witness, based on allegations that attempts had been made by the Senate to deprive the committee of such witness' presence, gave rise to a question of the privilege of the House.**

On Aug. 15, 1935,<sup>(17)</sup> Mr. John J. O'Connor, of New York, rose to a question of the privilege of the House and offered a resolution<sup>(18)</sup> authorizing the Speaker to issue a warrant commanding the bodily detention of a committee witness, it being alleged that attempts had been made by the Senate to deprive the committee of such witness' presence. The resolution stated:

Whereas the House did on July 8, 1935, adopt a resolution, House Resolution 288, authorizing the Committee on Rules to investigate any and all charges of attempts or attempts to intimidate or influence Members of the House of Representatives with regard to the bill S. 2796 or any other bills affecting public-utility holding companies during the Seventy-fourth Congress by any person, partnership, trust, association, or corporation;

Whereas under the authority conferred upon said Committee on Rules by said House Resolution 288, the said committee had caused to be issued a subpoena directed to H.C. Hopson to ap-

17. 79 CONG. REC. 13289, 13290, 74th Cong. 1st Sess.

18. H. Res. 340.